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California Energy Commission
Dockets Office
Attn: Dockets 04-IEP-01A
1516 Ninth Street, MS-4
Sacramento, CA 95814-5512

RE: 2005 Energy Report - Transportation Energy

To Whom It May Concern:

The Environmental Working Group would like to comment on the Commission's Petroleum Infrastructure Environmental Performance Review, in particular the current efforts to enforce environmental standards at California's refineries. The year we reviewed violation records of California air pollution control districts to evaluate major industrial facilities compliance with their air emissions permits and local regulations governing air pollution. Our survey included hundreds of 'major' industrial sources in four California air districts. We found compelling evidence that fines local air districts levy against polluters are inadequate to provoke meaningful compliance with Clean Air permits. Most egregious were the compliance records of California petroleum refineries.

We believe that the California Energy Commission's efforts to assess the environmental threats caused by the petroleum industry must include the statistics on historic compliance with relevant pollution control laws.

The EPA Inspector General reviewed California air quality enforcement efforts in 1997 and found the permit violations were resolved with surprisingly small fines. They concluded that companies' repeat violations of emissions laws indicated that the enforcement efforts were not an adequate deterrent. Our review of the past five-year's records reveals that California refineries have not made meaningful improvements in compliance.

Since 1999, the Bay Area air district has settled 371 penalties against refineries operated by BP, Chevron Texaco, Conoco Phillips, Shell, Tesoro, Tosco, Ultramar, and Valero, for a total of \$2 million. A quarter of the penalties were paid in a single fine by Shell to settle 71 violations gathered over a two-year period. Over the same period the South Coast settled 336 violations in 111 civil penalties against Arco, Chevron, Equilon, Mobil, Tosco, and Unocal for a total of \$3.7 million, with about half coming from the \$1.75 million settlement with Exxon Mobil in 2002. The South Coast is currently seeking a record \$319 million settlement against BP to resolve thousands of violations issued for false reporting, illegal flaring of gases and emissions of noxious fumes.

The \$5.7 million collected from refineries in the South Coast and Bay Area for civil penalties over the past five years is less than half of the daily income of the average parent company.¹

In addition to permitted operations, there is a pressing need for better emissions estimates from refinery processes. Recent findings have shown that whether due to leaky valves, upsets or routine flaring, refineries are emitting far more volume of harmful chemicals than previously thought.

In regard to environmental justice, the Commission's plans to evaluate the demographic and economic information about the communities adjacent to refineries. The fact that poorer people and non-white communities face an increase burden of air pollution has been well documented in California. However we recommend that the Commission also consider the underlying health status of adjacent communities. Many fence line communities suffer from higher rates of asthma and other respiratory diseases that are exacerbated by refinery pollution. Thus they will also benefit most directly from pollution reduction by refineries.

Thank you for your efforts to evaluate the health and environmental impacts of petroleum production in California. If you have any questions about EWG's research on refinery compliance or the toll of air pollution on public health, please don't hesitate to contact us.

Sincerely,

Sonya Lunder MPH
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Attachment:

Compliance summary for California refineries, 1999-2004. Excerpted from EWG's report Above the Law: How California's major air polluters (still) get away with it. (2004)

¹ The average net income of Chevron, Exxon Mobil, Shell, Conoco, BP, Tesoro, Valero and Unocal in 2003 was \$4.38 billion.

**California refineries rank among the state's worst facilities
in compliance with air pollution laws and permits**

Facility	City	Total civil penalties paid	Number of violations resolved
AES (power plant)	Alamitos	\$17,000,000	1
Mobil Oil Corporation	Torrance	\$2,155,575	80
Chevron Products Company	Richmond	\$662,511	123
Martinez Refining Company (Shell)	Martinez	\$598,652	122
Equilon Enterprises	Bakersfield	\$591,176	70
Occidental of Elk Hills	Kern County	\$587,538	35
Chevron Products Company	Bakersfield	\$547,467	78
Vintage Petroleum Inc.	Kern County	\$523,680	8
Chevron Products Company	El Segundo	\$518,450	93
Texaco California	Kern County	\$427,308	121
Tosco Refining and Marketing Company	Wilmington	\$382,363	74
Aera Energy Company (power plant)	Bakersfield	\$355,319	115
Hexcel Corporation (other industrial)	Livermore	\$80,680	92

Data provided to EWG by local air pollution control districts, 1999-1st quarter 2004

The full report, and 1999 report using the same analysis techniques are available on EWG's website.

<http://www.ewg.org/reports/stillabovethelaw/> and
www.ewg.org/reports/CA_abovethelaw/